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Daniel Portugal
P.O. Box 3030 H.D.S.P.
Susanville, Ca 96127

Court clerk,
Northern DIST, CRT. HSE;
Northern DIST, Calif;

Daniel Portugal

V.

T. Felker - warden

(CUSTODY STAFF);

FILED

Case No: C 08 - 0276 CRB

JUN 30 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Motion seeking issuance
of temporary restraining
order & Preliminary Injunction
order - against any Reprisals
BY STAFF of any manner;

I Daniel Portugal - VS 1068 Do solemnly swear
that to the best of my ability & knowledge - this
Entire entitled - Document / Motion to be true and
correct, According to the Color & letter of law,
and under the Penalty of Perjury, I'm seeking
of your Honorable court - A Preliminary Injunction
Be issued / served upon this institution's
warden T. Felker and its custody staff (I.E.)
Receiving Release AD-seg 1 & B & rd-staff - those
involved with my day to day handling, escorts,
Etc. All I can Do to name any, all of them,
who've threatened my Person with physical/
bodily harm is say "John Doe" Jane Doe & there
Bosses - which their sign in log, daily log will
Reflect - AS they won't tell you their name(s) or
Badge(s) numbers and most of the time they
keep it covered up with a suspender shoulder
strap or something of that nature if they
even have one on your Honorable court
I Do not feel safe "AT this institution"

Please Assist me in, with the temporary
 Restraining order, Preliminary Injunction,
 "Enjoining with my being moved-transferred to an
 institution - where I'm close to my family
 2"where I may be able to Program Safely" and
 "Be Free From harm & Potential Threats & Bodily
 harm" and if you would issue an order of
 "Protection" special handling an one of keep-
 ing & forcing this institutions custody staff
 to refrain from any type manner or form of
 Retaliation on or against my Person."
 "Please your honor" I beeging of your
 Honorable court" For this Layman at Law's,
 Prayer for Relief upon Your or your court
 Help" MR. Richard W. Weiking SNR, Clerk of the
 court I'm beeging of your sir to bring these
 motion my prayers for Relief be for the honorable
 Maj/Judge T.E. Henderson as I'm at the 1ST or 2ND most
 violent Penitentiary in the country - State of California
 and there reputation & PerPensity for violence against
 Ethnic I'm is anyone who draws heat creates unwanted
 undue, outside Attention from the court & Sacramento
 of those who arent outside or in Felted with "this
 Redneck Godd Oh-Boy-Green-wall 2ND To only
 Pleasant Valley, Pelican Bay & Corcoran State
 Prison & Salinas Valley

② Daniel Portugel
 V.
 Warden, T. Felker
 (ET-AL) custody staff;

Points & Authority

1. Cruz V. Betos 405 U.S. 319, 31 LED 2d 263, 92 S. CT. 1079 (1972);
2. Cooper V. Pate, 378 U.S. 546, 12 LED 2d 1030 84 S. CT. 1733 (1964);
3. Wolff V. McDonnell, 418 U.S. 539, 41 LED 2d 935, 94 S. CT 2963 (1974);
4. Hudson V. Palmer 468 U.S. 517 526-27, 104 S CT 3194, 82 L Ed 2d 393 (1984)
5. Deshanney V. Winnebago County Dept - of school SERVICES, 489 U.S. 189, 2000, 109 S. CT. 998, 103 L ED 2d 249 (1989)
6. Youngberg V. Romeo 757 U.S. 307-315-16, 102 S CT 2452, 73 L Ed 28 (1982)
7. Farmer V. U.S. 511 U.S. AT 834, 114 S. CT (1970)
8. Moore V. Mabuz, 976 F2d 268, 271 (5th cir 1992)
9. Martinez V. Stanford 323 F.3d 1178, 1183 (9th cir 2000)
10. U.S. V. Lopez U.S. ca 9th No 05-50415
11. Serrato V. Clark, U.S. ca 9th cir No 06/5167 May 9 200
12. re- Rosenkrantz 2002) 29 Cal 4th 616, 666, 128 cal rptr, 2nd 104 "ID" - AT 651

13. Motley V. Parks 432 F.3d 1072, 1077-78
(9th cir. 2005)

Dated 6-18-08
Daniel Portugal

Daniel Portugal
V.
Warden T. Felker
(ET, AL) custody STAFF

(3)

- Points & Authority -

1. Mouney V. Holsten, 35 S.Ct 340 294 U.S. 103;
2. Deluna (2005) 126 Cal. App 4th 585, 591 24 Cal Rptr;
3. Mc Quillion V. Duncan (9th Cir 2002) 306 F.3d 895 901-902;
4. Redd V. McGrath (9th Cir 2003)
5. Serrate V. Clark US, ca 9th Cir (No. 0615167, 5/07 9th Cir)
6. Olsen V. IDatto 363 F.3d 916, 922 (9th Cir 04)
7. Martinez V. Stanford 323 F.3d 1178, 1183 (9th Cir 03)
8. Motley V. Parks 432 F.3d 1072, 78 9th Cir 05)

Dated 6-18-08
Daniel Portugal

Daniel Portugal
V-51066 B4-113
P.O. BOX 3030 H.B.S.P.
Susanville, ca 96127

Court Clerk,
NORTHERN DIST, CRT, HSE.
NORTHERN DIST, CALIF;

Daniel Portugal

V.

T. Felker - warden
ET-ALL - custody STAFF

CASE No.

Motion-Seeking Issuance
OF TEMPORARY RESTRAINING
order - AGAINST CUSTODY STAFF
FROM ANY FURTHER THREATS
AGAINST ME, HARRASSMENT OF ME

I Daniel Portugal - Do solemnly swear,
that this entire entitled Document - to the Best
of my ability and knowledge is true and correct -
under the penalty of Perjury, and According to the
letter of the law, and to the color of the law
I am Seeking, Requesting of your honorable court.
the Issuance of this motion regarding my present, and
future safety, and on an against this Prisons custody
staff - in an with my handling of threats of physical
harm, to my Person by custody staff - that is I has
been involved with my movement, I in dealing with
me, in any manner - since my arrival at High Desert
State Prison - due to my being transferred here from
Sanlitas Valley state Prison, due to my being a some-
what successfull prison litigation and safety & security
issues there from threats of violence, & harm to my
Person, both in writing received by staff and verbally
as well, being overheard by staff upon my arrival
at high Desert state Prison at receiving & release
(R&R) I was Verbally threatment by staff. as
soon as they saw my legal work do to the Nature

OF my transfer to there institution - as they have display A Flagrant attitude towards, against S.N.Y inmates and they make that quite clear by Physical-verbal abuse of toward(us) myself - shortly after my arrival I wrote a letter to warden T. Felker regarding this matter of my concerns and my requesting to be placed in A.S.U. do to my concerns as I've laid them out in this motion For your Honorable court, and for what ever Reasons my request's, my letter were Denied, I'd clearly laid out all of my concerns of safety to my person, my enemy situation's which entitle a clear and eminent Potential safety and security issue, etc. etc.

In conclusion, I'm requesting of your Honorable court the issuance of this T.R.O - Temporary restraining order against and on this institutions - warden & custody staff, & my being placed in at-sea unit a transfer can be facilitated to a safe institution where I can program, free from harm and in a close proximity my family

1. logs will & would reflect all names of custody staff involved

6-18-08
Daniel Portugal

Daniel Portugal

V
warden - T Felker
(ET-AL) custody staff;

Points & Authority

1. this prison's NON compliance with the due process clause of the Federal constitution
2. (342 F. sup 616)
3. 483 F. 2d 1059
4. Robert O Mc Donnell, ETC - 418 U.S. 539, 412 F.2d 935, 94 S. CT 2963 (No 73-679) (1974)
5. Garner - supra 529 U.S. 254, at exto facto;
6. Formost - Re Rosenrant, 483 F.2d 1059
7. Included in above cite is Charles Wolff Jr. ETC, ET-AL Petitioner (3)

these above entitled Points & Authority are to include, being requested of & by way of your Honorable court issuing an additional order that no reprisals be taken against or shall any be administered to, on or in any fashion against this Plaintiff in this entitled action in its entirety - which is I/M Daniel Portugal V-51068, 9(ET-AL) I/M's - AS is the Plaintiff in this instant action and ongoing pending litigation - Pursuant to this unconstitutional Action of & by Dept - correc - Rehab - Violating his due process rights to unimpeded

Access to the courts, subjecting this Plaintiff, I/M D, Portugal to cruel - unusual Punishment
The right to bring a grievance or Action, to
through the administrative process to the
courts Free From Reprisals, threats & harm
From, by staff, I/M'S alike According to the
law state and Federal constitutions
amendments 1st, 4th, 8th, 14th OF the constitution

Dated 6-18-08

Daniel Portugal

Daniel Portugal Pro-Per
 V-51068 B4-113
 P.O. Box 3030
 Susanville, Cal. 96127

Northern DIST CRT, HSE;
Northern DIST of Calif;

Daniel Portugal
 T. Felker-warden Let-Al)
 custody staff

Motion/Letter For
seeking Prayer of
Relief of Your Honorable
Court.

Court clerk - Richard W. Weiking

Dear Judge Thelton E. HENDERSON:

I am writing this motion on regarding on safety security and concern against this Prison High Desert.

appellant Daniel Portugal *V-51068

I would like to request to be transfer from this institution due to this matters.

Prospective relief / Preliminary injunction

① Appellant has a history of filed many complaint against CDC due to my lawsuit civil rights Act, 42 U.S.C. § 1983. Salinas Valley transfer me to this institution, the circumstances is the I have safety security and concern issues. Appellant send a letter to the warden T. Felker regarding this matter but for whatever reason my request was denied to be place on A.S.U. due to my concerned safety and enemies security issues, etc. threats, Verbal Harassment Physical harm many times.

Legal Analysis, conclusions

Prison official, must provide humane conditions of confinement, must take 37F, SUPP 2d 927 reasonable measures to guarantee the safety of the inmate "see Hudson V. Palmer 468 U.S. 517, 526-27 104 S.Ct. 3194 82 1 Ed 2d 393 (1984) see Deshanney V. Winnebago -

County Dept of Social Services 489 U.S. 189, 200/09
 S.Ct 998, 103 L.Ed 2d 249 (1989) it is "cruel, unusual
 Punishment to hold convicted criminals in unsafe
 conditions" Youngberg v. Romeo 457 U.S. 307 315, 16
 102 S.Ct. 2452, 73 L.Ed 2d 28 (1982) Prison officials
 have a duty to protect prisoners from violence
 at the hands of other prisoners "Gratuitously
 allowings the beating of one prisoner by another
 serves no "legitimate penological objective"
 the objective component of a Failure to provide
 reasonable from harm claim is "Incarceration
 under conditions posing a substantial risk of
 serious harm" Farmer 511 U.S. at 834, 114 S.Ct. 1970. The
 Fifth Circuit has affirmed that "[5] one condition of
 may establish an Eighth Amendment violation" in combination
 when each would not do so alone, but only when they
 have a mutually enforcing effect that produces the
 deprivation of a single identifiable human need"
 Moore v. Mabry 976 F.2d 268, 271 (5th Cir 1992) (A) remedy
 For unsafe conditions needs not await a tragic event
 Helling v. McKinney, 509 U.S. 25, 33, 113, 5 Ct 2475, 125 L.Ed.
 2d 22 (1993) Inmate must be protected against present
 Future dangers Horton v. Lockrell, 70 F.3d 392
 40 (5th Cir 1995) citing Helling v. McKinney, 509
 U.S. 25, 113 S.Ct. 2475, 125 L.Ed 22

(1993) Prison authorities, must protect not only against current threats, but also must guard against "sufficiently imminent dangers that are likely to cause harm in the 'next week or month or year!'" Horton v. Cockrell 70 F.3d 397, 401 (5th Cir 1995) quoting Helling v. McKinney 509 U.S. at 32-33, 113 S. Ct 2475] the subjective component of a failure to provide reasonable protection from harm claims is "deliberate indifference" which is "more than mere negligence" in failing to prevent harm, acts or omissions for the very purpose of causing harm or with knowledge that harm will result, thus it the equivalent of acting recklessly Farmer 511 U.S. at 835 114 S. Ct 1970 the obviousness of the risk from facts known to the appellant is circumstantial but rebuttable, proof that defendant inferred the risk, 114 S. Ct. 1970; Bradley v. Puckett 157 F.3d 1022, 1025 (5th Cir 1998) In alberti, the district court concluded that inmate beating, attacks are prevalent! alberti 790 F.2d (S.D. Tex. 1984) The Fifth circuit held that it "determine whether any of those incidents individually constituted an Eighth amendment violation, as well according to chapter 3 section 33 a transfer may violate some other constitutional protection.

For example a transfer might subject a prisoner to cruel and unusual punishment if the person would be placed with known enemies or others who would cause serious harm

- ③ Prisoners are often very concerned about where they serve their time especially if they hope to receive visits from family and friends. Family ties, prison placement are specifically discussed in 34 or they wish to be in a particular program or housing arrangement that is available only at certain prisons. ~~once~~ a person is validly convicted the requirement of due process under the Fourteenth amendment of the U.S. constitution see *Farmer v. Brennan* (1994) 511 U.S. 825 (114 S.Ct. 1970; 128 L.Ed.2d 811) Prison officials have duty to protect prisoners from violence at the hands of other prisoners; a constitutional violation occurs when the danger of harm is "sufficiently serious" and the prison official acts with "deliberate indifference" to inmate's health or safety. See also § 2.20 concerning reasonable safety concerns and chapter 7 concerning reasonable safety concerns, chapter 7 concerning housing needs related to medical care.
- ④

as for the record as well I been on High Desert Prison for more the 1 1/2 week, still this Institution has not allowed me to receive my Personal Property especially when all my Property arrive with me on R4R, still have not receive any Fish kit Hygiene, laundry schedule and I have is one pair of sock's, 1 boxer's and shirt. I ask many times to Sgt, Sgt regarding some clothing or my legal Property, Personal Property as well but I try to resolve this issue on informal level due to the circumstances appellant has not receive any reply regarding this matter. this action's are "cruel and unusual conditions to live. appellant would like to request for protection to him and cellmate for this Institution not to make or a false 1030 Reported against appellant, cellmate for weapons or drugs and assault on staff.

the due Process clause protects a state Prisoner's right under First amendment, Fourth
 ⑤ Eighth amendment against "cruel and unusual punishment

6-18-08
 Daniel Portugal

~~High Desert State Prison~~
David Postupalsky W-51068 A.D.S.P.
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(171)

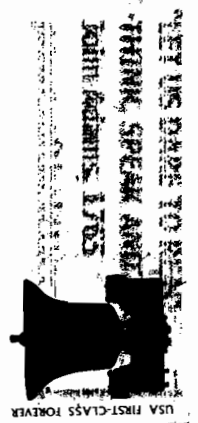
Legal Mail -
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STATE PRISON

RENO NV 895
19 JUN 2008 PM 1 T



Senior Judge Thelton E.
Henderson
U.S. District Court
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450 Golden Gate Avenue
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